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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,764	11/04/2003	Richard Lauch	16462	6324
43935 7590 07/19/2007 FRASER CLEMENS MARTIN & MILLER LLC 28366 KENSINGTON LANE PERRYSBURG, OH 43551			EXAMINER KRUER, STEFAN	
			ART UNIT 3654	PAPER NUMBER
			MAIL DATE 07/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/700,764	Applicant(s) LAUCH, RICHARD	
	Examiner Stefan Kruer	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 7, 9 - 12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 7, 9 - 12 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 7, 9 – 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chida et al (EP 1,148,018) in view of Hossler (US 2003/0094333) and Aker (5,511,633).

Re: Claim 1, Chida et al disclose an elevator drive brake element (41) rotatable between a brake reset and brake released position, a handle (18a) attached to the brake element for rotation between the locked and unlocked positions, thereby placing the brake in the reset and released positions, respectively, a means (46) for automatically locking said drive brake element, and thereby said handle, from rotating to said released position and a recess for receiving their elevator drive brake element and their locking means (Fig. 9).

However, Chida et al are silent regarding his locking means having a recess for receiving their handle as well as a safety switch contact engaged by their handle.

Attention is directed to Hossler who teaches his handle (41) as rotatable between said brake reset and released positions, a recess (bounded by 22, 23) for receiving his handle and a selectively operated locking means (150, Fig. 2) for maintaining said handle in a locked (brake reset) position. His locking means is "... a commercially available keyed plunger lock... to ensure that the handle cannot be moved out of the locked position" (Page 2, Para. 0018).

However, Hossler is silent regarding a safety switch contact.

It is Aker who teaches his switch contact (3a, Fig. 2) actuated by engagement of his handle (1, Fig. 4, Col. 3, Lines 4 – 14) to interrupt the circuit to his drive for safety as well as a locking means to prevent unauthorized removal of the handle (Col.3, Line 26).

In that locking systems providing both automatic and selective engagement are well-known to industry and are commercially available, it would have been obvious to one of ordinary skill in the art to modify the reference of Chida et al with the teachings of Hossler and Aker to provide a commercially available locking system offering either automatic or selective engagement with a brake handle, for the benefits of restricting its use to authorized personnel by means of commercially available locking means, thereby minimizing overall costs while ensuring user friendliness, as well as a switch contact for actuation by the handle to provide an interlock for control feedback and safety.

Re: Claims 2 – 7, 9 – 12 and 14, Hossler discloses said handle with a latch receiving aperture (42) and said locking means having a latching plunger (151) for releasably engaging said latch receiving aperture when said handle is in said locked position.

Whereas Chida et al disclose a removable handle having an elongated arm and seated in their brake element, Hossler teaches his handle having an elongated arm and affixed to his brake element (Fig. 1).

Hossler teaches an elongated arm having a leading edge (Fig. 2) capable of actuating said latching plunger, in keeping with said "... commercially available keyed plunger lock..." said arm having a rounded contour for actuating said latching plunger.

However, as reviewed above, Hossler is silent as to whether his locking means automatically locks his handle upon engagement of said locking means by said handle.

In that commercially available, keyed locking systems provide both automatic and selective engagement, are known to the art, it would have been obvious to one of ordinary skill in the art to modify the reference of Chida et al with the teaching of Hossler to provide a common, keyed locking system for restricting access to authorized parties.

Response to Arguments

Applicant's arguments filed 8 May 2007 with respect to Claims 1 and 14 have been fully considered but they are not persuasive.

Chida et al disclose their locking means including a recess for receiving their rotatable drive brake element and which is capable of receiving their handle and a

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safety switch, in as much as intended use and other types of functional language must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. In re Casey, 152 USPQ 235 (CCPA 1967); In re Otto, 136 USPQ 458, 459 (CCPA 1963).

Aker teaches his safety switch contact mounted for engagement with his handle for engagement/disengagement by said handle, wherein his safety switch contact is mounted in a recess for actuation by his handle upon the presence of the handle.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Aulanko et al (5,971,109), Helmle (6,892,862), Smith (WO 85/03971) and Ciezka et al (WO 02/29186A1, as subsequently patented under US 7,040,125) are cited respectively for reference of:

- "...a detector (71) ... which... can be connected to the elevator control system" (Col. 3, Line 29), whereby the undefined detector can be interpreted to be a switching contact as known in the art, to confirm the status of the position of the handle,

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- an elevator drive brake element (23) rotatable between a brake reset position and a brake released position, in combination with a handle (25) attached to said brake element for moving between a locked and unlocked position as well as a locking means (24),
- interlocking devices for fasteners having position sensing means "... in such a way that... the fastener is fully home, or at least its engaging is checked",
- a handle (16) as rotatable between locked and unlocked positions and a selectively operated locking means (26, 28) for maintaining said handle in a locked position. A locking means including a latching plunger (28) that "... forms an inclined surface 38 and... allows movement... similar to a door latch and accordingly makes it possible to press the hand lever 16 into the recess 14 without having to actuate the lock itself..." whereby "... the grip lever 16 is secured (sic) in its... folded position" by means of their plunger-receiving aperture (34). Additionally, "Sensors which check the position of the bolt are used for checking the position of the lock..." whereby "... other sensing devices can be provided in combination with keys ... that can unlock the lock", as well as "... it is advantageous when the electronics are held by the recess rather than by the actuating lever..."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on 571.272.6856. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

SHK

12 July 2007


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600